United Nations CCPR/C/SR.3138

International Covenant on Civil and Political Rights

Distr.: General
23 March 2015

Original: English

Human Rights Committee
113th session

Summary record of the 3138th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 17 March 2015, at 3 p.m.

Chairperson: Mr. Salvioli

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of Cambodia

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch)

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-05581 (E) 200315 230315

1505581

Please recycle

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Second periodic report of Cambodia (CCPR/C/KHM/2; CCPR/C/KHM/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Cambodia took places at the Committee table.*

2. **Mr. Mak** Sambath (Cambodia) said that work on the establishment of a national human rights institution had begun in 1997, when a committee had been set up to draft the necessary legislation. Thereafter, progress had stalled, however. In 2006, a workshop on the corresponding legislation had been attended by representatives from other countries in the region, government agencies and civil society organizations. A number of NGOs and civil society organizations had subsequently been tasked with drawing up a draft law, and a delegation had travelled to the Philippines in order to benefit from the lessons learned by that country. The draft law had been completed in 2010 and would be the subject of a workshop designed to gather feedback and expert recommendations. It would then be submitted to the Council of Ministers.

3. The Government had so far issued well over 3 million land title deeds. Consideration was given to the rights of indigenous communities, which enjoyed more land rights than other citizens, since their members could hold collective rights to community land as well as having the individual ownership rights available to the entire population. The land registration system was a participatory one, and indigenous communities were consulted throughout the process. As of 2014, the lands of 8 of the indigenous communities in Cambodia had been registered and the issuance of title to the lands of another 10 communities was under way.

4. Legislation designed to strengthen and ensure the independence of the legal and judicial system had recently been adopted by the National Assembly. Comprehensive electoral reforms had been introduced in the light of the demonstrations that had followed the previous elections, and the two main political parties had agreed to adopt a culture of dialogue and negotiation so as to avoid social unrest, which could lead to the violation of citizens' rights and threaten the country's security. A law to reform the electoral process was currently being drafted. Freedom of expression was enshrined in United Nations human rights instruments to which Cambodia was a party and the Cambodian Constitution. The Government did not restrict freedom of expression so long as the law and the rights of others were not infringed upon and the country's security was not threatened.

5. **Ms. Waterval** asked for clarification regarding complaints from NGOs regarding their lack of access to court decisions. She would like to know whether the training workshops on the Covenant that were held for government officials were evaluated and, if so, what their impact was and whether such training was available to judges and law enforcement officials as well. She wished to know whether the annotated Criminal Code providing guidance on the interpretation and application of the Code's articles would be officially recognized as a source of law and whether judges would receive training concerning the direct applicability of the Covenant. She also wished to know when the law establishing a national human rights institution would be adopted by parliament. Trafficking in persons was a widespread problem in Cambodia, and civil society organizations had reported that information on victims was limited and contradictory and that police investigations were rare, with the result that few cases were prosecuted. She invited the delegation to respond to the questions regarding the trafficking of persons contained in paragraph 14 of the list of issues.

6. **Mr. Iwasawa**, referring to reports of the use of excessive force against female garment industry workers during a demonstration for higher wages, asked what measures had been adopted to improve conditions for women working in low-paid, unskilled jobs. He would appreciate information on the differing employment rates for men and women and on the gender wage gap, as well as on the measures taken to do away with stereotypes regarding the role of women, particularly in schools. He would also be interested to learn whether the results of the Neary Rattanak strategies for the achievement of gender equality had been evaluated.

7. There were reports that many ethnic Vietnamese in Cambodia were stateless and struggled to acquire nationality, birth certificates and identity papers, even though they met the requirements, because of the difficulties involved in submitting the necessary documentation and local authorities' unfamiliarity with the applicable laws. Furthermore, the opposition party reportedly engaged in discriminatory discourse targeting Vietnamese persons which in some cases led to violence. He invited the delegation to comment on those reports and on any measures to address the problem that might be planned.

8. Noting that Cambodian legislation did not prohibit discrimination on grounds of sexual orientation or gender identity and that lesbian, gay, bisexual and transgender (LGBT) persons were often disowned by their families and treated unfairly by the police, he asked whether there were plans to amend discriminatory legislation, work to put a halt to social stigmatization and raise awareness of LGBT issues. He would also be interested to learn why the State party did not recognize same-sex marriage. Lastly, he wished to know when the country's programmes for raising awareness regarding persons with disabilities would be evaluated and how the denial of the right to vote to persons with mental disabilities could be justified under the Covenant.

9. **Ms. Seibert-Fohr** said that sexual violence within marriage seemed to be widely accepted in the State party and, although it did appear to be on the decrease, remained a cause for concern. The Ministry of Women's Affairs had reported that the prevailing attitude in society was that men were stronger and more valuable than women and that some authorities felt that a husband's use of extreme violence against his wife was justified if she disobeyed him. According to some accounts, 35 per cent of Cambodian men had used physical violence against their spouse. There was therefore an urgent need for sustained efforts to prevent gender-based violence and to prosecute offenders. She would be interested to learn what weaknesses had been detected in the first National Action Plan to Prevent Violence against Women, how the second plan would address those shortcomings and how it would be evaluated. Noting that few cases involving gender-based violence were brought to trial, reportedly owing to corruption, negative attitudes held by judicial and law enforcement officials towards women and the high cost of the medical certificates used as evidence in rape and sexual assault cases, she asked how many cases had been prosecuted, how access to justice was facilitated and how the social stigmatization of women who took legal action against their husbands was addressed. Lastly, she wished to know how many victims of sexual violence committed during the Khmer Rouge regime had received redress and why the Supreme Court had ruled, in that connection, that rape could not be deemed to be a specific type of crime against humanity.

10. **Mr. Ben Achour** said that he would like to remind the delegation that the Covenant, if properly understood, should not be seen as a constraint on States parties but, rather as a means of helping them to improve the quality of governance. There appeared to be a significant discrepancy between the law, which was in many respects very much in line with international standards, and practice. That was a concern that the Committee had already raised in the concluding observations that it had issued in 1999. He found it regrettable that some of the replies to the list of issues were incomplete. In the light of the corroborating information that the Committee had received from a number of sources about

the deaths of human rights defenders, journalists and trade union leaders at the hands of security forces, he would appreciate hearing the Government's views regarding those incidents and learning whether there was any real political will put an end to that type of violation, what steps were being taken to combat impunity and whether members of the armed forces and the police received suitable human rights training. He wished to know what follow-up there had been to the visit request made by the Special Rapporteur on the situation of human rights defenders in 2012.

11. With regard to the reports, as previously mentioned, of the use of excessive force against protesters by private security personnel and others, he would like to know whether, even if the security forces' actions had indeed been taken in response to violence on the part of protesters, the principles of necessity, proportionality and the sanctity of life been respected. Had the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials also been upheld? Information on whether or not the offenders had been prosecuted would be of interest. What steps were being taken to ensure that security forces adhered to the Covenant? He invited the delegation to comment on claims by NGOs that the repression of strikes had in fact been a means of punishing political opponents of the Government. Between 2010 and 2014, NGOs had conducted interviews with nearly 8,000 prisoners, some of whom had described having been subjected to acts of torture and ill-treatment either during police operations or while in custody. He would be interested to learn about any measures, either planned or adopted, for curbing such endemic abuses.

12. **Mr. Rodríguez-Rescia** said that, while he commended the State party on its cooperation with various international partners in the area of policy-building in respect of the prison system, it would be preferable if the State party would initiate and lead those kinds of projects itself. The replies to the questions contained in paragraph 11 of the list of issues were quite brief, and it would appear that the State party would do well to pay greater attention to the situation of persons deprived of their liberty and adopt a comprehensive approach for reducing the use of custodial sentences. He would like to know why pretrial detention was the rule rather than the exception and why it often exceeded the statutory time limit. It would also be appreciated if the delegation would explain why nearly 65 per cent of persons deprived of their liberty were awaiting trial or definitive sentencing, why the authorities sometimes failed to notify convicts of the nature of their definitive sentence, why some people were serving more time than the penalty provided for by law and why many children continued to live with their imprisoned parent beyond the statutory age limit. He invited the State party to provide the requested data, disaggregated by gender and age, on the prison population and to describe the steps that were being taken to ensure that the different categories of prison inmates were segregated from one another.

13. Referring to reports that more affluent prisoners enjoyed significantly better conditions, including larger cells and longer family and conjugal visits, he asked whether the Government had adopted any specific measures to eradicate corruption. On the subject of mental health services in prisons, he would be interested to learn more about the State party's joint efforts with the International Committee of the Red Cross and the other partners mentioned in paragraph 15 of the replies to the list of issues. He was concerned that there did not appear to be any measures in place to assist inmates with mental problems and that the budget allocations for mental health services were so paltry. As psychiatrists appeared to be the only mental health professionals recruited to work in the prison system, he would like to know whether any type of non-medical approach to mental health was being taken. Had any investigation and/or proceedings been launched in connection with the case of a woman who had died in November 2014 while in detention? Lastly, he wished to know why drug users were forced rather than encouraged to seek treatment.

14. The State party might wish to consider increasing the budget for the prison system so that conditions could be brought into line with international standards and using pretrial detention more sparingly. The availability of more resources would no doubt facilitate the effort to ensure that men and women inmates were separated from one another and to establish a separate juvenile justice system.

The meeting was suspended at 4.30 p.m. and resumed at 5 p.m.

15. **Mr. Mak** Sambath (Cambodia), recalling that Cambodia was a member of the Association of Southeast Asian Nations (ASEAN), that is was a signatory to many international conventions and that it had a democratically elected Government, said that the Committee members' comments were not accurate reflections of the situation in Cambodia. As for the earlier question regarding the status of the bill on the establishment of a national human rights institution, it should be noted that the bill had been finalized, but that its adoption by the Council of Ministers and parliament was on hold pending additional input from civil society organizations.

16. The Cambodian Human Rights Committee visited prisons monthly. He urged the Committee to liaise with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in order to obtain a more accurate picture of prison conditions in Cambodia. Pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government had set up a national preventive mechanism in August 2009 which monitored prisons, police detention facilities and drug rehabilitation centres. If torture was found to have been committed, the perpetrators were brought to justice. On the basis of individual interviews with prisoners, the Government had recommended a number of changes to improve the way in which some prison guards treated inmates. If the Committee had received reports of ill-treatment, it would have to provide more details on specific cases in order for the Government to be able to take action.

17. As to reports that wealthy prisoners "purchased" lengthier family and conjugal visits, the authorities had mandated the Cambodian Human Rights Committee and the Ministry of the Interior to look into the issue of prison visitation rights and would appreciate specific information regarding any such cases. Any prison officials engaging in such practices would certainly be held accountable for corruption. With regard to prison conditions, most prison buildings were unfortunately quite old. The Government was seeking to refurbish them and to construct new prisons with support, in some cases, from international development partners. Access to fresh air was guaranteed, and sports facilities had been built. Family members were permitted to provide inmates with money to buy food. Medical staff were assigned to prisons by the Ministry of Health. Children who lived in prison with their mothers should, in principle, be accommodated elsewhere as soon as they reached six years of age and began to attend school. In many cases, however, the mothers pleaded with the prison authorities to allow them to stay. If the mothers consented to their removal, the children could be accommodated at NGO centres or with relatives. No babies were born in prison. Expectant mothers were always moved to a hospital so that the baby's birth certificate would identify the hospital as the place of birth. The Government had released 22 women who were pregnant or had small children on 8 March 2015, International Women's Day. Others would be released on 14 April 2015, which was Cambodian New Year's Day.

18. The Ministry of Women's Affairs was taking vigorous action to address the issue of domestic violence and to ensure that perpetrators of such violence were held accountable under the Law on the Prevention of Domestic Violence and Protection of Victims. Violent husbands were arrested only if their wives consented to the arrest. When a wife subsequently pleaded to have her husband returned for the sake of their children, the husband could be released on bail on condition that he refrained from engaging in domestic

violence. Cambodian NGOs were encouraged to help the authorities to deal with the problem. Rape and acid attacks against women were rare, since legal action would most certainly be taken in such cases. The credibility of reports that 35 per cent of Cambodian men had used physical violence against their spouses was dubious, but any specific information that the Committee could provide would be welcomed by the authorities so that they could take the requisite action.

19. **Mr. Pol** Lim (Cambodia) said that the Cambodian authorities never prevented a person who was legally resident in the country from obtaining an identity card. Children who were born in Cambodia could obtain a birth certificate but did not necessarily qualify for Cambodian citizenship. A survey had been conducted of persons of 22 different nationalities, including Vietnamese, who were currently resident in Cambodia, and no cases of discrimination had been identified. With regard to the LGBT community, the Government had been urged by activists to enact an anti-discrimination law, but there was no indication that members of that community were actually discriminated against. People with physical or mental disabilities that rendered them unable to work required a medical certificate attesting to their status. If people with physical disabilities were unable to reach polling stations to cast their vote, transport facilities were provided for them. The Ministry of the Interior had requested that local authorities address disability-related issues, and the Government had created support centres for people with disabilities.

20. The Law on Peaceful Demonstrations provided for certain restrictions on protests where necessary. If violent demonstrations led to injuries, deaths or disappearances, investigative police officers took action to bring the perpetrators to justice. Persons who had sustained injuries or whose property had been damaged were compensated. The Law on the Press guaranteed freedom of expression without discrimination. It was not permissible, however, for such rights and freedoms to be abused in ways that would do harm to other persons. A law on access to information was currently being drafted. While some NGOs had criticized the Ministry of the Interior for drafting a law on State secrecy, the fact was that virtually every country had enacted a law of that sort.

21. A number of different ministries had worked together to draft a law on the juvenile justice system. Under the new law, prisons for women and juveniles would come under the authority of the Ministry of Social Affairs, Veterans and Youth Rehabilitation. The final draft would be discussed at a national workshop with a view to obtaining feedback and recommendations from NGOs. The Ministry of Justice had considered the issue of prisoners with infectious diseases at some length and had decided that they should be accommodated in separate cells. Drug-related issues were also being considered in cooperation with NGO partners. A law on associations and non-governmental organizations had been drafted and was awaiting enactment.

22. **Mr. Ith** Rady (Cambodia) said that Cambodia had recently enacted three new laws concerning the administration of justice: a law on the organization of the courts, a law on the status of judges and prosecutors, and a law on the Supreme Council of the Magistracy. An administrative body would be established to support the work of the courts at all levels. Members of the Supreme Council of the Magistracy would be based at their own secretariat but would also visit courts in all the provinces in order to monitor their performance. An internal disciplinary committee would deal with cases in which judges or prosecutors were accused of misconduct. An ad hoc inspection team would look into all complaints regarding the actions or performance of judges and prosecutors. Many Cambodian judges had already studied human rights issues at university, since human rights was a subject that formed part of the law degree curriculum. The possibility of providing further training in human rights for judges was being considered. The best practice of the Extraordinary Chambers in the Courts of Cambodia served as a model for the administration of courts at all levels under

the new legislation. Various changes had been made, including, for example, the modification of the allowable duration of pretrial detention.

23. The number of cases of human trafficking differed from year to year. The fact that fewer sentences had been handed down during a given period did not mean that the courts were failing to take legal action against traffickers.

24. Prisons in Cambodia were admittedly overcrowded. The General Department of Prisons had requested increased budgetary allocations so that new prisons could be built in the provinces. Courts were being encouraged to keep accused persons under supervision rather than placing them in custody. Community service was another recommended alternative to incarceration. Judges were as yet unfamiliar with those options, since the move towards a greater use of non-custodial measures was a relatively new development, but they would undoubtedly embrace such measures in due course.

25. **Mr. Ney** Samol (Cambodia) said that the report, which had been issued in 2012, stated that Cambodia had ratified six core international human rights treaties. It had since signed, ratified or acceded to the following additional core treaties: the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

26. **The Chairperson**, noting that the delegation had requested that Committee members provide it with more specific information regarding certain issues, said that at least 18 documents containing relevant information could be accessed on the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR). Information could also be obtained from the documents issued by other United Nations human rights treaty bodies. In closing, he urged Cambodia to ratify the Optional Protocol to the Covenant, which it had signed in 2004.

The meeting rose at 6.05 p.m.